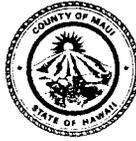


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COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

April 9, 2018

Mr. Sananda K. Baz, Budget Director
Office of the Mayor
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Baz:

SUBJECT: FISCAL YEAR ("FY") 2019 BUDGET (BD-9) (BF-1)

Pursuant to Hawaii Revised Statutes, Chapter 291E-11(2)(g), as attached, "Any person tested pursuant to this section who is convicted or has the person's license or privilege suspended or revoked pursuant to this chapter may be ordered to reimburse the county for the cost of any blood or urine tests, or both, conducted pursuant to this section."

May I please request your assistance with the following:

1. Where are the expenses related to blood or urine tests purchased by the Department of Police recorded in the Department's FY 2019 Budget? Provide the program, index code, and corresponding page number in the Budget Details.
2. What was the total quantity and total cost of tests purchased, by type, for FY 2016, FY 2017, and FY 2018, to date? Provide the respective fiscal year budget details sheet that corresponds with this departmental expense.
3. Does the County receive full reimbursement for the cost of the blood or urine tests? If no, what is the amount of reimbursement realized?
4. Where in the Appendix B, Revenues – Fees, Rates, Assessments and Taxes is the reimbursement recorded? Provide the department name, fund name, and corresponding page number in Appendix B.

Mr. Sananda K. Baz
April 9, 2018
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May I further request you transmit your response **no later than April 16, 2018**, to enable the Committee to comprehensively review the FY 2019 Budget.

Thank you for your attention to this request. Should you have any questions, please contact me or the Budget and Finance Committee staff, Michele Yoshimura (ext. 7663), Shelly Espeleta (ext. 7134), Maggie Clark (ext. 7661), or Yvette Bouthillier (ext. 7758), at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Riki Hokama", with a large, sweeping flourish at the end.

RIKI HOKAMA, Chair
Budget and Finance Committee

bf:2019bgt:180407abd01:mmy/ske/mcc

cc: Mayor Alan M. Arakawa
Chief of Police

PART II. TESTING AND IMPLIED CONSENT**Law Journals and Reviews**

Expert and Opinion Testimony of Law Enforcement Officers Regarding Identification of Drug Impaired Drivers. 23 UH L. Rev. 151.

§291E-11 Implied consent of operator of vehicle to submit to testing to determine alcohol concentration and drug content. (a) Any person who operates a vehicle upon a public way, street, road, or highway or on or in the waters of the State shall be deemed to have given consent, subject to this part, to a test or tests approved by the director of health of the person's breath, blood, or urine for the purpose of determining alcohol concentration or drug content of the person's breath, blood, or urine, as applicable.

(b) The test or tests shall be administered at the request of a law enforcement officer having probable cause to believe the person operating a vehicle upon a public way, street, road, or highway or on or in the waters of the State is under the influence of an intoxicant or is under the age of twenty-one and has consumed a measurable amount of alcohol, only after:

(1) A lawful arrest; and

(2) The person has been informed by a law enforcement officer that the person may refuse to submit to testing under this chapter.

(c) If there is probable cause to believe that a person is in violation of section 291E-64, as a result of being under the age of twenty-one and having consumed a measurable amount of alcohol, or section 291E-61 or 291E-61.5, as a result of having consumed alcohol, then the person shall elect to take a breath or blood test, or both, for the purpose of determining the alcohol concentration.

(d) If there is probable cause to believe that a person is in violation of section 291E-61 or 291E-61.5, as a result of having consumed any drug, then the person shall elect to take a blood or urine test, or both, for the purpose of determining the drug content. Drug content shall be measured by the presence of any drug or its metabolic products, or both.

(e) A person who chooses to submit to a breath test under subsection (c) also may be requested to submit to a blood or urine test, if the law enforcement officer has probable cause to believe that the person was operating a vehicle while under the influence of any drug under section 291E-61 or 291E-61.5 and the officer has probable cause to believe that a blood or urine test will reveal evidence of the person being under the influence of any drug. The law enforcement officer shall state in the officer's report the facts upon which that belief is based. The person shall elect to take a blood or urine test, or both, for the purpose of determining the person's drug content. Results of a blood or urine test

conducted to determine drug content also shall be admissible for the purpose of determining the person's alcohol concentration. Submission to testing for drugs under subsection (d) or this subsection shall not be a substitute for alcohol tests requested under subsection (c).

(f) The use of a preliminary alcohol screening device by a law enforcement officer shall not replace a breath, blood, or urine test required under this section. The analysis from the use of a preliminary alcohol screening device shall only be used in determining probable cause for the arrest.

(g) Any person tested pursuant to this section who is convicted or has the person's license or privilege suspended or revoked pursuant to this chapter may be ordered to reimburse the county for the cost of any blood or urine tests, or both, conducted pursuant to this section. If reimbursement is so ordered, the court or the director, as applicable, shall order the person to make restitution in a lump sum, or in a series of prorated installments, to the police department or other agency incurring the expense of the blood or urine test, or both. [L 2000, c 189, pt of §23; am L 2001, c 157, §11; am L 2002, c 113, §1; am L 2004, c 90, §5; am L 2006, c 64, §1]

Case Notes

Where defendant was lawfully arrested and then "accurately informed of his or her statutory right to consent or refuse, as well as the consequences of such consent or refusal", trial court erred in granting defendant's motion to exclude evidence of defendant's breath alcohol test result. 113 H. 363 (App.), 152 P.3d 535.

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